IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 8702 of 2005

Between:

A.V.S.N. Murthy E. 479069 Conductor, Waltair Depot S/o Appala Raju, R/o Waltair, Visakhapatnam District.

..... PETITIONER

AND

1 The APSRTC rep by Regional Manger, Visakhapatnam Region, at Visakhapatnam
2 The APSRTC rep by Depot Manager Waltair, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents herein in imposing the punishment of differment of annual increment for a period of 1year with cumulative effect without holding any departmental enquiry vide proc. No. P1/2(88)/98-Waltair, dt.6-4-1999, as illegal, unjust, contrary to well established principles of law and as such liable to be set a side by further directing the respondents to re-fix the pay of the petitioner by adding the differred increment w.e.f. 6-4-1999, and to pay the arrears forthwith.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: KUM.B.G.UMA DEVI

The Court, at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO:8702 of 2005

ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on 06-04-1999 on the allegation of unauthorized absence of duty and after receiving the explanation of the petitioner, the final orders were passed on 06-04-1999 imposing the penalty of withholding of one incremental stage for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of one year with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 6 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh** Gill (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for one year without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation

from the date of this order to which he is entitled, as he has been imposed penalty of reduction of one annual increment for one year without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. There shall be no order as to costs.

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April 20, 2005

KVR

To

1 The Regional Manger, APSRTC Visakhapatnam Region,

at Visakhapatnam
2 The Depot Manager, APSRTC Waltair, Visakhapatnam

3 2 CD copies.

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